

COMMONWEALTH OF MASSACHUSETTS

UNITED STATES DISTRICT COURT

Docket No. 2004CV10451 RWZ

JOSEPH PETER SCHMITT

Plaintiff

v.

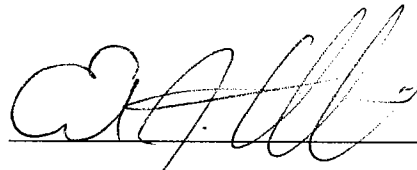
JEFFREY SMITH, ET AL.

Defendants

CERTIFICATION OF RECORD

I, Ernest J. Therien, certify that the attached documents represent true, accurate, and complete copies of the administrative hearing record in the case of Joseph Peter Schmitt, MCI Cedar Junction Disciplinary Report No. 02-0563.

Signed under the pains and penalties of perjury this 11th day of November 2004.

A handwritten signature in black ink, appearing to read 'E. J. Therien', is written over a horizontal line.

Ernest J. Therien
Disciplinary Officer
MCI Cedar Junction
PO Box 100
South Walpole, MA 02071

BSU

MASSACHUSETTS DEPARTMENT OF CORRECTION

MCI-CEDAR JUNCTION @ WALPOLE

RESULTS OF APPEAL

TO: Joseph Schmitt
RE: D-REPORT NO. 02-0563
DATE: 4/12/02

A. BY THE DISCIPLINARY BOARD

After reviewing your case involving the above-cited Disciplinary Report, the Hearing Officer finds as follows:

Hearing Officer

Date

B. BY THE SUPERINTENDENT

After reviewing your case involving the above-cited Disciplinary Report, I find as follows:

Appeal denied - No Merit

[Signature]
Superintendent

4/16/02
Date

A copy of this decision has been served on the inmate _____

Staff Signature

Date

02-0563

Exhibit L

RECEIVED
FEB 25 2005

APR 3 8 11 AM '02

TO: Peter Allen

FR: Joseph Schmitt WS7126

DA: 4-4-02

Enclosed find my Appeal for D-report 02-0563 (Exhibit K) along with Exhibit "B", Exhibit "C", Exhibit "D", Exhibit "E" and Exhibit "F."

Excluded from this appeal are Exhibits "A" - Department of Correction Notice of Disciplinary Hearing w/ Disciplinary report 02-0563, 3 pages. / Exhibit "G" - Evidence Produced to Tamate (Attached) w/ photocopy of front and back of envelope addressed to Joseph T. Chavez, 1 page March 13, 2002 letter to same person, 8 page true life story of my youth entitled Rain Dance. / Exhibit "H" April 2, 2002 letter from Peter Allen / Exhibit "I" Department of Correction Appeal form w/ 2 page D-report 02-0563 (Exhibit A), 4 page Disciplinary Hearing Summary (Exhibit J 4 pages), and Disciplinary Board Exhibit "A" which is my Exhibit "G" page 2 through 12.

All the excluded exhibits can be obtained via D-board. My copies are already mailed out for legal exhibits against you and others

cc: JPS File

Exhibit R

7 pages

TO: PETER ALLEN

FR: JOSEPH SCHMITT, W-57126, DDU# 113

RE: DISCIPLINARY REPORT No. 02-0563 APPEAL

DA: 4-4-02

Reasons for Appeal:

1) On 3-20-02 At approximately 8 pm I received (insofar as it being slid under the cell door and into my housing unit) D-report 02-0563. I was denied the CMR right (procedure) to sign for said D-report (Exhibit "A")

2) I immediately filled out "Department of Correction Request For Evidence Form". I specifically Requested "Copy of the letter and envelope/ And all written reports/ And the names and titles of every person involved with this illegal D-report/ And a copy of this form". I indicated that each document is central to my defense because, "I'm entitle to this evidence by the Supreme Courts' decision in Wolff v. McDonnell 418 US 539, 555 (1974) And because I fully intend to take legal Actions Against Any And All parties who partake in this illegal suppression of my First Amendment Civil Right. This Story is about me. This Harrassment Will stop, I guarantee you that it will. Evidence in legal Action against you. CMR policy states the DOC shall not censor what I write. You're violating Civil Rights And MGL's" I mailed this form to the Disciplinary Sgt, Therien.

3) I immediately filled out "Department of Correction Request for Representation And/or witnesses". Specifically indicated "YES" on number 3. ie, "Do you wish to have the reporting Staff Person Present

At the Disciplinary Hearing?" I sent this document to Disciplinary Sergeant Therien with the aforementioned document in paragraph 2 of this Appeal.

4) On March 21, 2002 I sent a word by word copy of my "Notice of Intent" to: Jeffrey Smith, William Grossi, Ernest Therien, Peter Allen, Michael Maloney and MA. Dept. of Correction. See Exhibit "B".

5) On March 21, 2002 I sent the MCI-Cedar Junction legal representative, Cheryl A. Maher a word for word copy of Exhibit "C".

6) On March 21, 2002 I forwarded a word for word copy of Exhibit "D" to MCI-CJ Disciplinary office.

7) On 3-24-02 I sent a word for word copy of exhibit "E" to Sgt Ernest Therien.

8) On March 30, 2002 I sent a word for word copy of exhibit "F" to Sgt Ernest Therien.

9) On 3-22-02 I received an Evidence Produced to Inmate Form, Attached to a copy of the front and back of the envelope Addressed to Joseph T. Chavez, A copy of my March 13, 2002 letter to said person, And a copy of my true personal life experience of intimate relations with my boyhood best friend for which I entitled Rain Dance. Exhibit "G", not included as it was already mailed to my ACLU Attorney for Evidence in the law suit I intend to file

10) On 4-2-02 William Faria approached my housing unit door to inform me he would be holding a hearing for me and did I want to participate in said hearing. I informed him that I did and donned a tan scrub shirt while he was getting unit staff to open my door and escort me out to the hearing area

11) Upon Arriving in the DDU All-purpose-room next to B-2 tier, I immediately realized the absence of Jeffery Smith for whom I did request to be present as noted in paragraph 3 of this appeal statement. Upon informing William Faria of this specific issue he alleged that no such request was received.

12) I further informed William Faria of my strong opposition to him holding the hearing, and all future hearings due to his undeniable impartiality due to the fact he is a defendant in several legal actions for which he is fully informed by me in writing and verbally. My opposition was denied.

13) I further questioned William Faria as to the whereabouts of my 3 page statement for the D-hearing (Exhibit "D"). William Faria alleged that no such document was received. I stated that it is extremely unbelievable that said documents - my statement and request for reporting staff - allegedly are not received and that it also happened involving D-report hearing held prior to this present hearing, ie D-Report hearing for D-report # 02-0496.

14) Maintaining a calm respectful attitude I informed William Faria that in light of the noted issues (ie, no reporting staff to confront, no statement, impartial hearing officer) I would have to pursue justice in court as the present proceedings were grossly violating my due process rights. I then turned and proceeded to walk out with the unit Sgt at my side and an officer (CO. Johnson he stated his name is when I asked him on my way to housing unit B2-113).

15) On 4-3-02 I received a letter from Peter Allen dated April 2, 2002 which was a reply to the March 21, 2002 "Notice of Intent" I sent to Commissioner Maloney regarding D-report 02-0563. This

document is now Exhibit "H".

16) On the late evening of April 4, 2002 Department of Correction Appeal form (Exhibit "I") was slid into my housing unit under the door by an unknown MCI-CS public employee. Attached to said appeal form is a copy of D-report 02-0563 (Exhibit "A" pages 2 and 3), MCI-Cedar Junction at Walpole MA. Dept of Correction Disciplinary Hearing Summary (Exhibit "J"). And a copy of the front and back of the envelope addressed to Joseph T. Chavez with my March 13, 2002 letter to said individual and 8 page true life story entitled Rain Dance (Exhibit "G" pages 2-12).

17) Upon reading Exhibit "J" I see under "Requests and motions that my Impartiality challenge (Exhibit "E" and/or "F") is denied because William Faria is not a witness to the alleged incident. This statement is contradictory upon itself for the clear fact that William Faria had full and complete access to Exhibit "G" (marked as exhibit "A" by disciplinary office) and therefore had a clear and bias opinion as to my guilt or innocence. This officer is clearly bias due to filed and to be filed law suits naming him as a defendant. It is grossly negligent to assume this officer can be anything but Bias/Prejudiced against me when the history between us is documented in my 6 part folder and MA Dept of Corr. files. Also, my request for all written reports is denied. The reason allegedly being that no written reports exist. This is a violation of the State Administrative Procedure Act, G.L.C. 30A. It is also upheld by the Supreme Court in *Wolff v. McDonnell*, 418 U.S. 539, 555 (1974) that procedural due process must be followed before an inmate can be deprived of a state-created liberty. My due process is blatantly violated due to the alleged nonexistent written

reports. I Am also denied names and titles of those who affixed their signature upon the D-report. This coupled with the fact that I was denied the presence of the reporting officer blatantly violates the confrontation clause of Art. 12 of the Massachusetts Declaration of Rights as well as the confrontation clause of United States Sixth Constitutional Amendment. The Supreme Court in *Wolff v. McDonnell* clearly upholds that an inmate does have the guaranteed right to procedural due process. Furthermore, I clearly stated my reasons for requesting the names and titles of all staff involved with it (D-report 02-0563). See paragraph 2 of this appeal.

18) Under "Presentation of Evidence" of Exhibit "J" it alleges I entered no Plea. I did so in writing - which said document, exhibit "D" never was received, which I believe is a blatant cover-up/lie. - And also the fact that I insist on a hearing is a logical assumption that I am opposing the allegations made against me which in any view is a NOT GUILTY PLEA.

19) Under "Documentary Evidence" of Exhibit "J" it indicates "Exhibit A - 9 page letter with envelope". This is my exhibit "G".

20) Under "Statement of Evidence Relied upon to Support findings: of Exhibit "J" there is an abundance of misinformation. William Farra fails to state full facts, ie why I declined to participate in the hearing, exactly who and what the letter/story is truly about. He leads one to believe its a perverted child porn story, when in fact its a true account of my first intimate sexual relationship with a same sex partner when I was 12.

21) Since August 2001 I have been subjected to such abuses by MCI-CS officials that blatantly reek of prejudiced, harassment, sexual discrimination. All of which, and more, are simply to attempt to have me committed to M.T.C. It has been clearly stated to MA D.O.C. officials and other state's high officials what my goals are. I will not accept or allow ignorant, prejudice, so called righteous MCI-CS staff to interfere with my goals. I will take legal actions against said corrupt, vindictive, ignorant officials. Simply because I violated a MGL in 1985/7 does not give any DOC public employee the right to harass me and subject me to cruel and unusual punishments. Let it be known very very clearly Mr. Peter Allen that I am fighting to obtain information from 3 people regarding boys/girls they molested and have not been caught over so the victims can get help. Also I am and will continue to try to obtain information from an individual who intends to kidnap, rape, and eventually murder two young girls for which the individual is serving time for now.

22) I did a very fucked up thing in my past Mr. Peter Allen, but I will not allow idiots who are hell bent to punish me get away with it. DO YOU COMPREHEND THIS PETER ALLEN?

23) As for "Reason for Seaction" in Exhibit "J" William Faria again tries to play it up by his idiotic statements. Such statements only show how prejudice and bias this "defendant in numerous law suits" truly is.

I challenge you to provide documented proof supporting William Faria's Allegations. Show me a MGL, CMR, Fed law stating I can not write about my life. Show me which departmental rules I "clearly clearly violate with such Material" as William Faria goes beyond limits to stress so as to ensure himself his corrupt, illegal, bias, vAadictive, sanctions will be upheld. — even though they will never in reality be served since I have less than 19 weeks to serve to wrap up my 4-8 year prison term, And he and his corrupted cohorts have given me over 100 weeks of sanctions for related and unrelated issues. Furthermore, with just this short time left suddenly rehabilitation is an issue? Be for real! Ma D.O.C. don't give a fiddler's fuck about rehabilitation. I requested programs, etc etc And you, for one, denied me, so don't even try that line of bull shit on me!

24) I will continue to write about my personal life experiences And anything else I need to do to extract trust and information I seek to help real unheard victims, And corrupt D.O.C. officials will not stop me. Your petty ass D-reports mean nothing to me. I will be free soon Peter Allen and rest assured I will exercise my constitutional right to confront my accusers. In the real world you and the rest of the corrupt public employees can not hide behind your sanctions, policy, And other actions that deprive inmates. I'll be free Peter Allen and will look you eye to eye and demand my Justice, just as the Constitution guarantees All men, women And children. Think about it Peter Allen. You will, just like everyone else will, have to face your corrupt deeds soon. I look forward to exposing the foul putrid stink of Corruption!

cc: JPS File

Schnitt v. Smith et al 7 of 7

Joseph P. Schnitt

Notice of Intent

TO:

FR: Joseph P. Schmitt, WS7126, DDU-B2-113 *Joseph P. Schmitt*

DA: March 21, 2002

RE: Disciplinary Report number 02-0563

Attention Please:

I Am directly informing you that your involvement in the above disciplinary matter has caused me to take immediate legal action, for which you are a named defendant.

This noted disciplinary report violates my First and Eighth Constitutional Amendment Rights

This noted disciplinary report alleges that I wrote a sexual story about a child. In fact, this sexual story is about myself and my youthful sexual experience. There is no CMR, State or Federal law which prohibits such writings

The continued, vigilante, prejudice, discriminatory, illegal, oppressive prosecution against me is not acceptable and if you persist with this particular disciplinary report I will sue you. You are to return my letter, envelope and story or face the legal consequences. This report is corrupt and to uphold it makes you the same.

COPYExhibit C

3-21-02

TO: Cheryl A. Maher

FR: Joseph P. Schmitt W57126

RE: Disciplinary Report # 02-0563

Paralegal Maher:

I direct this to you as you are the legal representative of this facility.

IPS CO Jeffrey Smith has authored a disciplinary report against me, which beyond doubt of law violates my constitutionally protected 1st and 8th Amendment right, and I believe shows sexual discrimination and or gay bashing

I deposited a letter/story in the mailbox on March 13, 2002 addressed to my adult friend Joseph Chavez. Jeffrey Smith IPS CO alleges that on 3-15-02 he determined I violated institutional rules and disrupted the orderly running of the institution.

Lets cut all the fat away, shall we? I wrote to my adult friend a personal experience I had, as a 12 year old boy, with my best friend who was 11 years old. I am not going to accept this vigilante type bullshit from anybody. I'm certain you are aware of the constitution's civil rights, specifically the 1st and 8th Amendment

I demand this corruption be put down willingly or I will take action and have it put down. I have violated no rules or laws by writing about my personal experiences

I advise you to inform your clients that their actions are now illegal and I will take steps to prosecute all who are involved including now yourself. Harassment, Cruel and unusual treatment, gay bashing, are criminal and civil violations against me! Correct it or be sued!

TO: MCI-CJ Disciplinary Office

FR: Joseph P. Schmitt, W57126

DA: March 21, 2002

RE: Disciplinary Report # 02-0563, dated 03/15/2002

"Joseph P. Schmitt's Statement for D-Hearing"

First, this disciplinary report is for an alleged infraction on March 15, 2002, but it was not signed off by the shift commander and/or Disciplinary Officer until 3/19/02 and/or 3/20/02 which violates the CMR Disciplinary Policy time limits. This is enough to dismiss this D-report.

Secondly, I'm charged offenses #2, #8, and #33. Nowhere in the CMR's does it state I can not write about my sexual experiences as a youth and send such writing to a consenting adult.

This witch-hunt-type-mentality of MCI-CJ staff is a clear violation of my first and eighth Constitutional Protected Amendment Rights. Since the incident re. D-report 01-1583 officials at this facility have prosecuted me in cruel and unusual fashion for any and all incidents, for the transparent goal of compiling a paper trial to try to prove I have a serious behavior problem so I can be committed to M.T.C. upon my release from the

COPY

Prison term I'm serving.

I have violated no M.G.L., NO CMR, NO Federal law. I am being illegally harassed by prejudice and corrupt Dept. of Correction officials because of my present conviction.

I do have all intentions of filing legal action on this matter just as I have in every other matter related to this incident.

It is illegal for Ma. Dept. of Corr. Officials to do what is being done and if it is not stopped within Administrative Remedies a court Judge and/or Jury will have to handle it.

As I stated in the stat, the report is for personal correspondence to a consenting Adult. Nowhere in any policy of the Ma. Dept of Corr. does it state I can not relate, in writing, or otherwise, incidents which I personally experienced. Simply because the incident is sexual I'm being prejudiced and harassed, and subjected to cruel and unusual punishment.

I will not accept such corrupt actions against myself, and do intend to continue to write what I want, when I want, to whom I want, as I am guaranteed the right to do by the U.S of A. First Constitutional Amendment

COPI

It is also a known fact that I am working to obtain facts of non-reported sexual abuse to children And I will do everything within my abilities to get these facts so I can, in the end, turn such information over to New Mexico authorities so abused children can receive the help they deserve. Corrupt, undictive, prejudice MCI-CS officials will not prevent me from achieving my goals in this matter. My objective is righteous and I do not and will not allow Anybody to stand in my way —

Joseph P. Schulz

CC: JPS File

COPYExhibit E

3-24-02

Sgt Ernest Thornton

RE: D-report 02-0563 (and future reports)

I request that officer William Faria be barred from handling this disciplinary report (and any future report) due to the fact that he is a knowing defendant in several lawsuits and for said factual reason he can not be impartial.

Joseph P. Schmitt
Joseph P. Schmitt

WS7126

DDU-B2-117

CC: MCLS File

ACHV File

JPS File

Peter Allen

CopyExhibit "F"

TO: Ernest Therrien

FR: Joseph Schmitt W57126 DDU # 112

RE: D-hearing 02-0563 (And all future hearings)

DA: March 30, 2002

I am notifying this office that I oppose having the following Disciplinary Officials holding hearings for the noted report and/or all future reports due to the fact William Faria, Donald Dompierre, and Ernest Therrien are named defendants in filed and soon to be filed law suits. Their participation in any proceeding can be nothing near impartial.

Thank you for your Attention

Joseph P. Schmitt

cc: Peter Allen

MCLS

ACLU

JPS File

BZ

DDU

DEPARTMENT OF CORRECTION
NOTICE OF DISCIPLINARY HEARINGTO: **JOSEPH SCHMITT**I.D. #: **W-57126**Re: Disciplinary Report #: **02-0563**Date: **03/15/2002**

You have been charged with a disciplinary offense(s) which has been referred to the Hearing Officer for a hearing. A description of the offense(s) is contained in the attached Disciplinary Report. Your disciplinary hearing has been scheduled for:

04/02/2002

(Date of Hearing)

If you wish to be represented, request the presence of the reporting staff person, request other witnesses, and/or request a taped hearing, please fill out the attached Request for Representation/Witness Form. If you wish to request evidence, please fill out the attached Request for Evidence Form.

Notice Served By: _____ Date: _____ Time: _____

Inmate's Signature: _____ Date: _____ Time: _____

***When an inmate has been given copies of the above enumerated documents, but refuses to sign this acknowledgement, the staff person who delivered the documents shall complete the following:

I personally delivered copies of this Notice, Disciplinary Report, Request for Representation/Witness Form, and Request for Evidence Form to: **JOSEPH SCHMITT**

(Inmate's Name)

and he refused to sign.

Staff Person's Signature: Paul Gordon Date: 3/20/02Print Name: Paul Gordon Time: Spn

**The actual scheduling of the hearing may be delayed if circumstances require; however, you will be notified of the actual date of the re-scheduled hearing at least twenty-four (24) hours in advance of that date.

DEPARTMENT OF CORRECTION
REQUEST FOR EVIDENCE FORM

TO: JOSEPH SCHMITT#: W-57126RE: 02-0563Date: 03/15/2002

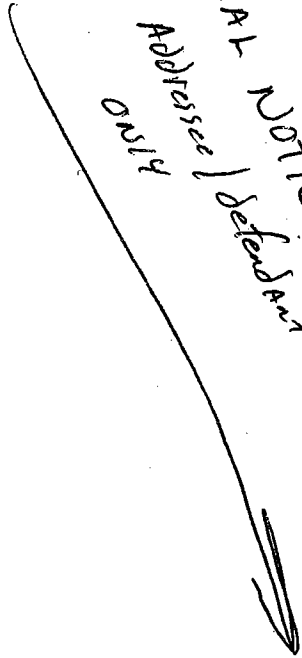
I understand that I will be served at a reasonable time prior to my disciplinary hearing with any documents which may be used against me. In addition to any such documents, I wish to request access to the following document(s) prior to my hearing which I believe will show me not guilty of the alleged infraction(s) contained in the D-Report. I understand that, in the event the Disciplinary Officer at the institution where the alleged disciplinary infraction(s) occurred denies my request for these documents(s), it will be up to the Hearing Officer to decide if I am entitled to the document(s) for the reason(s) I have stated. The Hearing Officer will determine if the requested document(s) are relevant and not merely repetitive and whether they are central to the preparation of my defense. The Hearing Officer may deny my request for documents if he/she determines that producing them would be hazardous in the particular situation. If the Hearing Officer decides that the document(s) need not be provided, his/her reason(s) will be included in the final report.

I am requesting the following specific document(s): Copy of the letter and envelope
/And all written reports / And the names and titles of every person
involved with this illegal D-report / And a copy of this form.

Each document is central to my defense for the following reasons: I'm entitled to this evidence
by the Supreme Court's decision in Wolff v. McDonnell 418 U.S. 539,
555 (1974). And because I fully intend to take legal action against
any and all parties who partake in this illegal suppression of my 1st
Amendment Civil Right. This story is about me. This harassment will
stop I guarantee you that it will. Evidence in legal action against you.
MCJ's policy states the DOC shall not censor what I write. You're violating civil rights. And
Please be advised that failure to return this form to the Disciplinary Officer within 24 hours of receiving it will be considered as a waiver of request for any evidence.

Joseph Schmitt
US7126
DDU B2-113

LEGAL NOTICE
For Addressee Defendant
Only



Defendant Peter Allen
MCI-Cedar Junction

2-25-05
J. Schmitt
(1)

MCI - WALPOLE
SUPERINTENDENT'S OFFICE

TO: Sgt. Therman

FROM: PETER E. ALLEN, SUPERINTENDENT

RE: ATTACHED CORRESPONDENCE (# _____)

DATE: 3-25-02

I am referring the attached to you:

1. () Please draft a response for my signature.
2. () Please reply to the sender that the Superintendent has referred this matter to you. (Return this slip to my office with a copy of your response).
3. () Review and return with comments / advise.
4. () Other: Include with his despatching package

PLEASE COMPLETE AND RETURN TO MY OFFICE NO LATER THAN

_____/_____/____.

Notice of Intent

ECCL DPT'S OFFICE
MILWAUKEE

MAR 25 10 57 AM '02

TO: Peter Allen

FR: Joseph P. Schmitt, W57126, DDU-B2-113

Joseph P. Schmitt

DA: March 21, 2002

RE: Disciplinary Report number 02-0563

Attention Please:

I am directly informing you that your involvement in the above disciplinary matter has caused me to take immediate legal action, for which you are a named defendant.

This noted disciplinary report violates my first and Eighth Constitutional Amendment Rights

This noted disciplinary report alleges that I wrote a sexual story about a child. In fact, this sexual story is about myself and my youthful sexual experience. There is no CMR, State or Federal Law which prohibits such writings.

The continued, vigilante, prejudice, discriminatory, illegal, oppressive prosecution against me is not acceptable and if you persist with this particular disciplinary report I will sue you. You are to return my letter, envelope and story or face the legal consequences. This report is corrupt and to uphold it makes you the same.

COPYREC'D Supt's Office
MOL WALPOLE

2-24-02

Sgt Ernest Therlen

MAR 25 10 57 AM '02

RE: D-report 02-0563 (and future reports)

I request that officer William Farca be barred from handling this disciplinary report (and any future reports) due to the fact that he is a knowing defendant in several lawsuits and for said factual reason he can not be impartial

Joseph P. Schmitt
Joseph P. Schmitt

W57126

DDU-B2-113

cc: MCHS File

ACLU File

JPS File

Peter Allen

DEPARTMENT OF CORRECTION

EVIDENCE PRODUCED TO INMATE FORM

TO: Joseph Schmitt W-57126
Inmate's Name
FROM: Sergeant Ernest J. Therien
Disciplinary Officer
RE: Disciplinary Report #: 02-0563

EVIDENCE PRODUCED TO INMATE (ATTACHED)

- 1) 9 page letter (with envelope) authored by Inmate Schmitt.

DENIAL OF REQUESTED EVIDENCE AND REASON FOR DENIAL

- 1) *all written reports...*

REASON FOR DENIAL: Nonexistent.

- 2) *the names of every person involved with this illegal report...*

REASON FOR DENIAL: Not a document request.

- 3)

REASON FOR DENIAL: N/A

Served by: _____ Date: _____ Time: _____

Inmate Signature: _____ Date: _____ Time: _____

****When an inmate has been given copies of the above enumerated documents, but refuses to sign this acknowledgment, the staff person who delivered the documents shall complete the following:

I personally delivered copies of this EVIDENCE PRODUCED TO INMATE FORM with the identified documents to J. Schmitt and he refused to sign acknowledging receipt.
Inmate's Name

Staff Person's Signature [Signature] Date: 3-22-02

Print Name: E. Therien Time: —

4/2

**MASSACHUSETTS DEPARTMENT OF CORRECTION
MCI-CEDAR JUNCTION AT WALPOLE
DISCIPLINARY REPORT**

INMATE: Joseph Schmitt ID#: W-57126 HOUSING UNIT: DDU #113DATE: March 15, 2002 D-REPORT NO.: 02-0563OFFENSES(S) & CODE NO.: #2; #8; #33MINOR MAJOR REFERRED TO DISTRICT ATTORNEYMAJOR REFER TO SPECIAL DDU HEARING OFFICERDESCRIPTION OF OFFENSE(S):

On March 15, 2002 I, Officer Jeffrey Smith determined that inmate Joseph Schmitt violated institutional rules and disrupted the orderly running of the institution.

It has been determined that inmate Schmitt has authored a letter to Joseph Chavez, an inmate incarcerated in New Mexico. This letter contained an explicit sexual story pertaining to sexual acts with a child and is consistent with previously authored stories by inmate Schmitt. His actions of authoring this story violates institution rules and disrupts the orderly running, as he has been previously disciplined on material of this nature and is aware of the consequences. The letter has been confiscated as evidence and all proper authorities were notified.

HAS INMATE BEEN PLACED ON AWAITING ACTION STATUS? YES _____ NO ✓REPORTING STAFF PERSON'S SIGNATURE Jeffrey Smith
Jeffrey Smith, C.O. IPSDAYS OFF S / MSHIFT 7 / 3

(PLEASE PRINT NAME)

SHIFT COMMANDER'S SIGNATURE Capt. [Signature]Date: 3/19/02DISCIPLINARY OFFICER'S SIGNATURE [Signature]Date: 3/20/02

APPEAL RESULTS _____

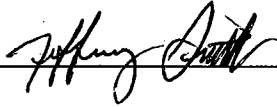
REVIEWING AUTHORITY _____

DATE: 4/3/02

OFFENSES:

2. VIOLATING ANY DEPARTMENTAL RULE OR ANY OTHER RULE, REGULATION, OR CONDITION OF AN INSTITUTION OR COMMUNITY BASED PROGRAM.
8. CONDUCT WHICH DISRUPTS OR INTERFERES WITH THE SECURITY OR ORDERLY RUNNING OF THE INSTITUTION.
33. ATTEMPTING TO COMMIT ANY OF THE ABOVE OFFENSES, MAKING PLANS TO COMMIT ANY OF THE ABOVE OFFENSES OR AIDING ANOTHER PERSON TO COMMIT ANY OF THE ABOVE OFFENSES SHALL BE CONSIDERED THE SAME AS THE COMMISSION OF THE OFFENSE ITSELF.

REPORTING OFFICER'S
SIGNATURE: _____



TITLE: CO1

MCI CEDAR JUNCTION AT WALPOLE
MASSACHUSETTS DEPARTMENT OF CORRECTION
DISCIPLINARY HEARING SUMMARY

INMATE: Joseph Schmitt #: W-57126

REPORT #: 02-0563 DATE OF REPORT: 3/15/02

DATE OF HEARING: 4/2/02 HEARING OFFICER: William Faria

1. The inmate was given at least 24 hours notice of the hearing (if no, attach 24 hour waiver) YES ☒ NO ☐
2. The inmate is present before the hearing officer (if not, attach refusal to appear form) YES ☒ NO ☐
3. The inmate has been advised of his right to remain silent, since the offense charged has, or may be referred to the District Attorney. The inmate has been further advised that his silence may be used to draw an adverse inference against him, but his silence alone may not be used to support a guilty finding. YES ☐ NO ☒
4. The inmate requested representation YES ☐ NO ☒
The inmate is represented by an attorney/law student YES ☐ NO ☒

Name of legal representative: N/A

5. The inmate requested the presence of the reporting staff YES ☐ NO ☒

The reporting staff person is present YES ☐ NO ☒

If the inmate's request was denied, indicate the reason: N/A

6. Inmate challenges impartiality of the Hearing Officer.
YES ☒ NO ☐

If yes, state reasons why: States hearing officer is known defendant in lawsuits.

7. The hearing was tape recorded YES ☐ NO ☒

8. Was the inmate offered the use of the AT & T language line? Yes ☒ No ☐

Requests and Motions

1. Impartiality challenge: Denied Sgt. Thorsen rules that inmate's reasoning lacks merit. Furthermore, DHO Faria was not a witness to the alleged incident.

2. Written reports: Denied Nonexistent

3. Names/titles of people involved with report: Not a document request. Reporting officer's name on the written report. Additionally, inmate fails to cite why those names are central to his defense.

PAGE 2

INMATE: Joseph Schmitt D-REPORT: 02-05838. Witness: If none requested, check here ☒

A. REQUESTED BY INMATE: (If any witness request is denied, a written explanation of the reasons must be included as part of the record)

(1) n/A

(2) /

(3) /

B. REQUESTED BY HEARING OFFICER:

(1) n/A

(2) /

(3) /

9. Presentation of evidence:

A. Inmate Statement

PLEA: No Plea Entered

Statement in defense (summary):

Inmate initially attended the hearing. After being informed that there was no witness form among his requests he voluntarily removed himself from the hearing. Consequently, the hearing was held in absentia.

B. Reporting Staff Person's Statement:

n/A

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INMATE: Joseph Schmitt D-REPORT: 02-0563

C: Other Witness Statements: (If witness has been denied, indicate
reason(s) for denial in this space)

Witness #2 Name: n/a

Statement: _____

Witness #3 Name: n/a

Statement: _____

Documentary Evidence

In addition to the Disciplinary Report, the Hearing Officer accepted into evidence, and considered the following documents, physical evidence, photographs/video tapes:

Exhibit A - 9 page letter with envelope

PAGE 4

INMATE: Joseph SchmittD-REPORT: 02-0563FINDINGS: Guilty (2)Dismiss (8/33) - Not established

Statement of Evidence Relied upon to Support Findings: (continue on Pg 4a if necessary)

A guilty finding has been established based primarily on the reporting officer's detailed report and exhibit A. Inmate Schmitt's refusal to enter a plea or participate with this hearing has drawn an adverse inference against him. Consequently, the reporting officer's report and physical evidence has been accepted as an accurate account of events. Thus, it has been determined that inmate Schmitt authored a letter containing an explicit sexual story pertaining to sexual acts with children. Exhibit A reflects a sexually explicit story involving sexual acts with children. Consequently, based on this information, it has been determined that inmate Schmitt authored this sexually explicit material and attempted to send it through the mail (2).

SANCTIONS AND RECOMMENDATIONS:

Charge (2) - 12 weeks loss of TV, Radio, Phone

Reason for Sanction:

The imposed sanction serves to advise inmate Schmitt that the sending of such material is not authorized. Such material clearly clearly violates departmental rules. Furthermore, such behavior is detrimental to the rehabilitation of inmate Schmitt and to the public safety. Hopefully, inmate Schmitt will reevaluate his personal goals and intentions while incarcerated at MCIJ.

The inmate has been advised of his right to appeal this decision within 5 working days of his receipt; to the Superintendent: ✓

Hearing Officer: W. JSDate: 4/4/02

The inmate has been advised of the Hearing officer's decision and a copy of this document has been delivered to the inmate: ✓



3-15-02
JD

Joseph T. Chavez
43897

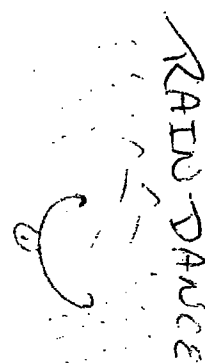
6900 W. Millen Dr.
Hobbs, N.M. 88244

Joseph P. Schwartz W57126
PO Box 100
South Wagon, NM. 02071-0100



Exhibit A

RAIN-DANCE



Roll A smoke
make A cup of coffee
And enjoy this true
Adventure at my youth.

March 13, 2002

Hi Joe,

I'm sure you seen the envelope's backside and couldn't wait to get this letter out so you could read about my youthful experience - one of many.

I sent out 4 9x12's today at \$5.20 each!

These assholes refused to accept service to keep cost low so I had to serve em via Certified mail. No problem, its done and now I start pumping my big cock into their collective asshole!

I've got a 4 page (7 sides of writing) letter on the desk ready to be mailed tomorrow night with this letter and my 4 page (8 written sides) story entitled Rain Dance. Must admit it brought me back to a happier place and time. You remember this story Joe and when I get out in 5 months I'll send you pictures of the cliff and all the great places Ben, Mel and I called home turf.

I'm all out of love so I'll close now. 5 pages are apt stapled together in this letter. Enjoy and tell me what you think.

Oh and Ben was the one and only I ever did that one thing with which I mention near the very end of my recollection and describe it as heart throbbing. I didn't even do it with David or Brent or James. Not like Ben and I did it twice on that cliff top. You'll see what I mean. Tell me what you think it is when you write back, ok

Big Love Forever
Joe

Rain Dance: A TRUE story of my youth. Joseph P. Schmitt age 12ish.

Reaching back to my pre-teen (tween) years this is a true story about me and my very special friend Benjamin. My dad was one of the residents who took care of the 10 duplex houses in the small community. My Uncle Joe was the other resident. Me, I had the yard work cornered for all the houses. Made a bundle doing that plus selling night crawlers. I even had yard jobs in the connecting community. I lived on a dead end road the very last house, in a wooded area next to the Yantic river and the railroad. All together including the post office, package store and Rosey's - a bar stripper joint I had at least 30-35 steady customers year round. My standard pay was \$10.00 per yard. I worked hard every weekend and sometimes made more dough than my dad who worked all week. I was 12 years old pulling 300-350. I did a yard in like 20-30 minutes. Got tired of having to rake so I went to Benny's Hardware store with dad and bought me kick ar mower that bagged the grass. I'd put the clippings in a hefty garbage bag and my uncle Joe charged me \$5.00 to drive me around and pick up all the bags then drive me to the dump. Business was business. I offered 10.00 but he would only take \$5.00. Well an apartment-house was empty so uncle Joe, dad and me cleaned it up painted etc etc. Yeah, I got \$5.00 an hour from the land lord. After a while I went to a flat rate and made more \$ Anyway the only kid my age was me! my immediate neighbor. When I spotted Benjamin I was instantly attracted to him. He was smaller than me. I rode by on my bike and caught glances at him. He was real friendly too. They lived on the other dead end near the loop, which was actually the drive way of the left side of the duplex he lived in. He was on the right. His dad and older brother told him to take off if he wanted to so he hopped on the back of my bike - it had a banana seat with a tall assissy bar and it was chopped. 6 ft fork extension on that bad to the bone hot rod 20 in boys bike with 3 speed shift! - and I headed down to Eli's to show off. Eli is the old guy who owned the package store. I had an account with him. I took Benjamin in and we got two lakes and a fist full of slim Jim's. Benjamin was impressed. Even more so as we sat in the stone house windows and watched the trout come up for May flies in the river below. I told him how the land lord paid me to do the yard work for all the 10 duplex houses and how I had other jobs and even sold night crawlers, worms. I had a charge account at the package store, convenient store, and both Dinos & Yantic pizza. I did work everywhere for these places too! The stone houses were simply round stone structures with a round painted roof a big

open doors and 2 open windows. The one on the left had a stone bench seat all around and that's the one we sat in. We were in the windows actually. On the round houses are connected to the stone bridge. Well we chomped on slim jims (I bought at least 40 per week) and gulped the colicities down as I told Benjamin about his new home area & school. He'd be in Kelly Jr High with me, although he'd be in only one of my classes plus gym. Both of us were in 7th grade. He loved to fish and hunt. I knew the best places to fish up and down the Yante River, the road behind my house, which was private property which I had permission to fish and even stock it. I'd catch bass cat fish etc from Fatchville pond and release em into my private fishing hole. Small and deep and spring fed. Well I was a little surprised when Ben stood on the bench seat, announced he had to pee and without the slightest bit of shame unzipped his jeans and in clear view of me pulled his dick out and grinned mischievously at me as he let loose a powerful stream of piss that arched up and out the window. I had to piss to so I pulled my half hard dick out and stood so he'd see it. I didn't know the fact that both of us had a boner when we finished pissing. I could tell he was out. I wasn't but I'd peeked it back before taking it out so it'd look normal. Our jeans bulging naturally in front tended to hide most of our dicks but what I saw of his I liked. I wanted to see more of it and already made plans to do so. I showed him around the area on my bike. It felt really nice to have him to lean against and sit between his legs. I introduced him to Mel and Mel gave me a very knowing grin. Mel and I fooled around already. Benjamin was really cute. Sort of blond - light brown - strawberry blond hair, shoulder length, green eyes, a sprinkle of freckles, slim and about a 1/2 head shorter than me. His dickhead was bright red and the shaft was pale and freckled. Mind you I only saw a little bit of his dick. I knew he had narrow long slender fingered hands. I used to believe that weaves take about long finger thin and or fat equalled long dick thin and or fat. It was summer so Ben, Mel and I spent a lot of time together. Ben was an excellent fisherman, just like Mel and I was. We'd fish all day catch and release trout and keep a few to eat. We enjoyed the woods too. Ben was a country boy and loved to climb the huge pines and oaks and maples in the area. After only a couple weeks Ben & I were like life long best friends. It was a Saturday. Mel was out with his family visiting relatives. Ben and I decided to explore the woods. We ended up on the cliff. It was a hot sultry afternoon. We were shirtless just knocking back on the plush grass carpet looking down over the river, the distant highway and

(3)

houses. Thunder rumbled and behind us the sky was growing very dark. I'd been up in the elms in all types of storm and loved it. I suggest that we get undressed so our clothes and sneakers won't get soaked. I pointed out that I did it a lot and to keep my clothes safe and dry I stuff 'em in the hollow hole in the nearby huge Oak tree. Ben agreed, making a wise crack about skid marks in my briefs. I was a little shy about being unclothed but Ben had seen it already as we pissed shamelessly side by side here and there over the weeks and in a matter of fact way told me I was like Johnny, his older brother. Ben was circumcised which he admitted and I saw. We were side by side in front of the hollowed Oak tree stealing peeks at each other, our boyish curiosity ruling our actions, which is only natural for boys in the tween years as we were. I couldn't help but admire Ben's trim little body. I liked boys way more than girls any way, even at the age of twelve. I wasn't embarrassed now that I knew for sure I was hung a lot better than Ben. He even made a comment about my dick and balls being pretty big. He was harmless in his crotch, just peach fuzz above his little limp dick. His nut sac was tight up under his dick, pale just like his dick. His dickhead was a bright red. His sac was about as big as a golf ball. I felt my dick start to swell and willed it to stop, then stuffed my clothes & sneakers, all rolled up tight in my jeans, into the hollow of the tree then stuffed Ben's in too. I noticed his dick was getting bigger and throwing a left jab into his flat belly. I told him he better not get a boner looking at my naked butt. He threw a fast jab at me catching me soled in the breech then bounced away laughing. His naked little body was freckled even his moon white butt and dick. The storm was really close. The wind and whip cracking lightning was awesome up there. Ben started doing his boyish version of a Rain Dance and I happily joined. He had me cracking up laughing with his antics. Moaning "Mother Nature" and telling her to blow this as he bent over and spread his butt cheeks and wiggled his semi-hard dick in the direction of the darkened sky. Ben was a class clown. A great guy to hang out with. He danced his way beside me and we ended up in a side by side wild foot kicking, leg raising dance yelling over the crashing thunder and lightning and the sound of torrential down pour approaching through the heavily wooded area. His arm was around my ~~lower~~^{middle} back and my arm was draped over his shoulders. In the excitement both of us had sprung a boner. And then the sky was dark all over us and fat cold rain drops had us soaked in a matter of seconds. It was a thrill and a shock all in one. Made our boners wilt and our nut sacs shrivel up tight. We were loving it though. Ben

Was getting all touchy feely with me in a playful way. Kicking my butt and throwing jabs at me from chin to belly button. Mind you I was taller and stronger and better than Ben. He got a sweet 3 piece combo in on me quicker than Bruce Lee! Left right in the belly and a open left to my face. It was still pour grape sized rain drops too. I grabbed his skinny arm and scooped him up and flopped him upside down, facing me, for a pile driver. I'd done it to him before but this time I had a face full of naked crotch. He was pleading ~~with~~ with me not to pile drive him as he held me tight around the waist and also had a close up of my naked crotch. I laughed telling him I'd bite his dick instead and playfully nipped his limp shaft. He squealed excitedly almost slipping from my hold. I let him slide down my naked wet body and flopped his legs away so he flopped onto his back and before he knew I was kneeling over his face, his arms pinned down under my shins and my hands on his hips holding him down. I laughed telling him to kiss it as I rubbed my butt cheeks against his face. He was laughing too! Then I hauled in gear and shot straight up off him, my butt stinging where he clamped on it. He was on me quick and although I couldn't get him off using full strength I let him pin my arms down as he sat straddled on my ribs-lower chest and leaning over me. Mischievous in those emerald eyes. He was telling how gross it was to have my butt hole on his mouth and nose. Then as the idie struck him his face lit up with a big grin and he bounced up so his dick, semi-hard again, was almost touching my chin. I pleaded with him, laughing so hard I almost peed, not to do, but hoping he would do it. I tried to get my arm free - just hard enough to make it real, not to break free. "Kiss it, Joe". He laughed giggling his hips so his dick bounced over my chin and sealed lips. I "uh-uhed" shaking my head no side to side. His dick was a full blow wonder now and so was mine. After a few heavenly minutes I gave up and kissed it right on the underside of the small head and he let my arms go and slid down onto my belly. I swore I'd get even and he laughed saying it was worth it cause I kissed his boner. His balls ~~later~~ were resting on my belly and he grinned a shy mischievous grin as he followed my gaze to his crotch. The rain had stopped and it was getting bright again. The thunder rumbled in the distance. Ben twisted to get a look at my crotch and with dancery eyes and mischief in his voice he asked if I was horny too. I admitted I was horny too and Ben said we should Jack off. I joking told him to Jack me off, and

⑤

he surprised me by Agreeing, claiming it was only fair since I kissed his dickhead. He slid back, letting my boner rub against his butt crack and balls. Without any shame about it Ben took hold of my boner and scooted up so he had both our boners laying across his hand. Mine was fatter and at least an inch and a half longer. He glanced at me saying I was lucky to have a big dick and almost-man-sized-nuts. I reached down and jiggled his now loose and dangling nutsac, and told him big nuts were easier to kick and we both laughed. I was curious if he could shoot and asked him as I hooked his boner with my thumb and lifted it off his hand. He flashed me an all-too-eager grin and told me he could shoot some and he really loved how it felt. I wasn't a virgin by any measure of the word but I wasn't sure just how far Ben would be willing to go with me. I took hold of both our boners and holding my hands on my gut I told Ben to hump my fist. Back then hump meant fuck just in case you didn't know. Ben put his hand flat on my chest and slowly started pumping his hips, telling me to squeeze harder, which I gladly did. I never did this with anybody before and I really like it. His nuts bounced against mine. Just a couple minutes of this fist humping and Ben suddenly shuddered and grunted. A squirt of jizz shot onto my belly and Ben stopped humping, flashing me a "Opps, did I do that" grin as he gazed down at me. I fingered the jizz and laughed saying he should've shot on the grass not my belly. He came back with "It's more exciting the way I did it". I told him he'd have to use his t-shirt to wipe his jizz off me and he laughed and told me he'd just lick it off and before I could react he slid down and bent down and licked my belly. It felt wierd but in a good way, I held my hand up showing him the jizz on my palm and with a chuckling laugh he licked it. When he sat up he followed my gaze and a shy grin spread on his face. I flexed my boner, making it bounce. Without a word said between us our short time friendship was taken to a new and exciting level. Ben bent over resting his elbows on each side of me and lightly holding my sides and staring at my boner he took it into his mouth as I flexed it making it rise up. I grabbed fist all of the plush carpet of grass and groaned happily. Ben tilted his head to see me and a smile spread around my boner. I told him it felt Awsome and I'd do him Afterwards if he wanted me too. He "uh hummed" me and sucked up and down my beefy black boner. The foreskin was sucked up over the sensitive head which was cool with me cause I wouldn't shoot so fast that way. Ben had no clue about such things. He made the tip push into his throat a few times, gagging himself but still tried it. He had a big mouth, deep actually and could fit all but an inch or so of my boner

in it. I asked him to lick my nuts and he didn't hesitate to fulfill my perverted desire.. I jerked myself off slow and easy as he licked, sucked and even nibbled on my plump nuts and sac. I let him know I was getting pretty close and with a knowing smile he leaned his head up and opened his mouth so I could push my bumer into it. This time I held the foreskin down pinching my dick at the base between thumb and forefinger. I told him to suck the head and was blasting my boy jazz against the back and roof of his mouth in 30 seconds. He sucked me like a Hoover Vacuum Cleaner. His tongue wiggling wildly and those soft pouty lips felt awesome. He was swallowing my jazz and when I realized this wasn't going to be a when born knob job I let go of my dick and the foreskin slid up over the swollen orgasm-sensitive head. Ben was rubbing my nuts with ^{one} ~~one~~ hand and gently scratching my pubic area with his other. He got between my legs in the process. I was pudgy in his hand. Eager to do whatever he led me into. And boy did he lead me in some wild stuff. As he slowly worked his thrilling mouth up and down I asked him if he ever did it to anyone else. He released my dick making a wet-suction-pop sound. With a sly grin he asked if he was that good and I admitted he was doing it just like I like it done. He swore he never did it with anybody. He thought about doing it all the time and was glad I liked doing it too. Then he asked if I wanted to do something else. I told him I'd do anything with him and he smiled telling me to roll over onto my belly. I did but also told him to let me suck it. for him first so I could taste it clean and also so it'd be slippery with spit and slide inside me easier. He eagerly knelt in front of me and I opened my mouth and took him all the way to the base. He laughed telling me I could fit his nuts in my big mouth to and sure enough I could. I had a mouth full and loved it. Ben gently stroked my head and started pumping my mouth after I released his nuts. I sucked the best I could and Ben seemed to forget that we were just doing it to get it slippery. He pumped his dickhead between my lips, the ridge getting plenty of action. Then he'd push it all in my mouth telling me to suck hard, which I did eagerly. He wanted to shoot on my tongue, saying he'd pull out when he got close and would blast off aiming it at my wide open mouth. I didn't mind and not much longer later he ~~was~~ pulled out and started beating off with 2 fingers and thumb. I opened wide with my tongue stuck out and spooned to catch his jazz. Ben hessed and I saw his jazz squirt out. A lot more than

(7)

what came out the first time and I guess it was hard too aim and handle that intense feeling all at the same time because I got splattered all on my fuzzy upper lip, nose and cheek. Just a tiny bit actually made it into my wide open big mouth. Ben was laughing as he beat the last drops from his swollen dick. I went to suck it and he pulled back, laughing still, and telling me he had to clean my face. I laughed too. It was contagious. He told me he'd lick it off and had me roll onto my back and quickly straddled my belly, sitting on me lightly. He leaned over on top of me, his smiling face and beautiful eyes right above my face. I couldn't help but giggle which made him giggle too. Surprising me he nuzzled my nose with his, his lips so lightly brushed mine. A shiver of excitement blasted through my hormone pumping body. He licked my cheek first then my chin and twisting his head at an angle to mine he chuckled as he went to do my upper lip. It wasn't a lick like the other 2 places. No way. It was more lip action and it excited me beyond belief. I'd never kissed anybody when doing sexual stuff, but my head tilted and hand flew onto ribs and I was tasting his boy jazz really strong as his soft pretty lips and tongue mingled with mine. His green eyes were blazing and he was grinding against my belly, moaning excitedly, letting all untamed sexuality run free & wild under the clear blue sky. Ben and I kissed for the longest time and when he pulled away he flashed me a heart melting smile and proclaimed a heart felt "You're my best friend ever, Joe, and stretched out on top of me, his head on my chest, my hard dick stabbing at his smooth firm belly. We stayed like that for an eternity. Ben stroking my chest and left shoulder and I affectionately stroking his side. The strong summer sun quickly dried us and the ground. Ben pushed up, purposely pressing back onto my stiff dick. Without a word spoken he reached back and took my dick and sat on it, sodomizing himself as he gazed at me. He leaned forward, arms straight, hands on the ground beside my ribs. I grabbed his dick in my fist and he started humping my fist like he'd done earlier but this time my dick was inside his tight hot flexing butt hole. It felt incredible! Ben rode my boxer for at least 20 minutes before he shot his nuts dry. He drained my fist nuts a little while later, riding me faster and harder which I didn't have the endurance to hold out against. After we enjoyed another, although fast, heart throbby kiss we got dressed and headed to his place. Ben found out about me and Mel and we had plenty of 3 some in those woods behind my house and in each others rooms and basements. We were always horny and always had an eager partner to relieve the pressure of our budding sexuality.

And that's the way it was for me and Benjamin. It was innocent love between us. The 3 of us were tight as blood brothers and boy did we get into scraps ~~if~~ fight one of us you better believe the other two would join in and pound the crap outta ya. Memories of my youth & innocence. I went to Elon in Maine and by the time I was allowed home October 31, 1980 Ben & Mel had moved. It broke my heart not to have my friends in my neighborhood. I got my license in Dec. right after my 16th birthday. Dec 2, 1980. Hope you enjoyed my true life story — I enjoyed telling it and experiencing it.